

CITY OF ST. CATHARINES

BY-LAW NO. 2021-67

A By-law to provide for the licensing, regulating and inspecting of Short-term Rentals in the City of St. Catharines.

AND WHEREAS subsection 11(1) of the Municipal Act, 2001, S.O. 2001, C. 25 (the "Act") provides that a local municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 11(3) of the Act provides a local municipality with jurisdiction with respect to business licensing;

AND WHEREAS subsection 23.2(4) of the Act permits a local municipality to delegate certain legislative and quasi-judicial powers;

AND WHEREAS subsection 151(1) of the Act provides that, without limiting Sections 9, 10 and 11 of the Act, a local municipality may provide for a system of licenses with respect to a business;

AND WHEREAS subsection 391(1) of the Act provides that a municipality may impose fees and charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS subsection 25.1(1) of the Statutory Powers and Procedures Act, R.S.O. 1990, c. S.22 (the "SPPA") provides that a tribunal may make rules governing the practice and procedure before it;

AND WHEREAS subsection 5.2(1) of the SPPA provides that hearings may be held electronically in a proceeding;

AND WHEREAS Council for the City of St. Catharines considers it necessary and desirable for the public to regulate the short-term renting of residential property for the purpose of protecting the health and safety of the persons residing in residential rental properties by ensuring that certain regulations are met; for ensuring that the residential rental properties do not create a nuisance to the surrounding properties and neighbourhoods; and, to protect the residential amenity, character and stability of residential areas.

THE COUNCIL OF THE CORPORATION OF THE CITY OF ST. CATHARINES enacts as follows:

1. SHORT TITLE

1.1 Short title. This by-law shall be known as the "Short-term Rental Licensing By-law".

2. DEFINITIONS

"Action" means a proceeding in a court or tribunal of competent jurisdiction.

"Agent" means a Person duly appointed by a Licensee to ensure the premises are operated in accordance with the provisions of this By-law.

"Applicant" means and includes a Person seeking a License or renewal of a License or a Person whose License is being considered for revocation or suspension.

“Building Code Act” means the *Building Code Act*, 1992, S.O. 1992, c. 23 and its regulations.

“Building Code” means Ontario Regulation 332/12: Building Code.

“By-law” means this Short-term Rental Licensing By-law, and any future amendments made to it.

“Chief Building Official” means the Chief Building Official for the Corporation of the City of St. Catharines or his or her designate.

“City” means the Corporation of the City of St. Catharines.

“Council” means the Council of the Corporation of the City of St. Catharines.

“Reopening Ontario Act” means the Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, S.O. 2020, c. 17.

“Director” means the department head responsible for City by-law enforcement or his or her designate.

“Dwelling Unit” has the same meaning as defined under the Zoning By-law and for greater clarity, the definition forms a part of Schedule “A” attached to this By-law.

“Electrical Safety Code” means Ontario Regulation 164/99: Electrical Safety Code.

“Electronic Hearing” means a hearing held by a form of electronic technology allowing persons to hear and see one another, and includes hearings conducted by video conference.

“Electronic Recording” means a record created, generated, sent, communicated, received, or stored by electronic means.

“EMCPA” means the Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9.

“Fire Chief” means the Fire Chief of the City or his or her designate.

“Fire Code” means Ontario Regulation 213/07: Fire Code.

“Fire Protection and Prevention Act” means the *Fire Protection and Prevention Act*, 1997, S.O. 1997, c. 4 and its regulations.

“Fire Safety Protocol” means a protocol approved by the Fire Chief which contains an outline of actions for a Person to take in the event of a fire emergency, the location of all fire-related safety equipment, a floor plan of the premises indicating the location of all emergency exits, contact information containing the name, phone number and e-mail address of the Owner or Long-term Tenant, and an undertaking to comply with any applicable law, including the Open Air Burning By-law and Fireworks By-law, and which also includes a “Fire Safety Plan” that would be required under the Fire Protection and Prevention Act.

“Fireworks By-law” means the City’s Fireworks By-law No. 2016-6.

“Hearing Officer” means such Persons as appointed by Council pursuant to Schedule “B” of this By-law for the purpose of hearing an appeal or reviewing a decision made by the Director pursuant to this By-law.

“Highway” has the same meaning as defined under the Highway Traffic Act, R.S.O. 1990, c. H.8.

“Home-based Business” has the same meaning as defined under the Zoning By-law and for greater clarity, the definition forms a part of Schedule “A” attached to this By-law.

“License” means a license issued under this By-law.

“Licensed Electrician” means an electrical contractor duly licensed pursuant to the provisions of Ontario Regulation 570/05: Licensing of Electrical Contractors and Master Electricians.

“Licensee” means any Person who holds a License.

“Long-term Tenant” has the same meaning as “tenant” under the Residential Tenancies Act, 2006, S.O. 2006, c. 17, and has rented or will rent the Dwelling Unit for a period of at least 12 months.

“Medical Officer of Health” means the Medical Officer of Health for Niagara Region.

“Non-Parking AMPS By-law” means the City’s Non-Parking Administrative Monetary Penalty System By-law No. 2021-68.

“Officer” has the same meaning as “provincial offences officer” under the Provincial Offences Act, including a by-law enforcement officer or property standards officer.

“Open Air Burning By-law” means the City’s Open Air Fires By-law No. 2015-29.

“Owner” means a Person that is the registered owner of a Property.

“Parking Management Plan” means a plan, drawn to scale, depicting the size, surface material, and location of all parking spaces intended to be used for parking on the premises, and such plan shall be compliant with the Zoning By-law and the Traffic By-law.

“Person” means an individual, firm, proprietorship, partnership, association, syndicate, trust, corporation, department, bureau or agency.

“Powers of Entry By-law” means the City’s Power’s of Entry By-law No. 2020-107.

“Principal Residence” has the same meaning as defined under the Zoning By-law and for greater clarity, the definition forms a part of Schedule “A” attached to this By-law.

“Property” means any land or premises that is within the jurisdiction of the City.

“Provincial Offences Act” means Provincial Offences Act, R.S.O. 1990, c. P. 33, and its regulations.

“Rates and Fees By-law” means the City Rates and Fees By-law.

“Region” means the Regional Municipality of Niagara.

“Short-term Rental” means a Home-based Business wherein a Dwelling Unit is the Principal Residence of the Owner or Long-term Tenant and is rented for a period not exceeding 28 consecutive days.

“Traffic By-law” means the City’s Traffic By-law No. 89-2000.

“Zoning By-law” means the City’s Comprehensive Zoning By-law No. 2013-283.

3. APPLICATION AND ADMINISTRATION

3.1 Jurisdiction. This By-law shall apply to all Dwelling Units within the geographic boundaries of the City, save and except for those facilities which are exempt under section 3.2.

- 3.2 Exemption. This By-law does not apply to a hotel, motel, or bed and breakfast establishment as defined in the Zoning By-law.
- 3.3 Administration. This By-law shall be administered and enforced by the Director.
- 3.4 No License. No Person shall carry on, or intend to carry on, any trade, business or occupation of a Short-term Rental for which a License is required under this By-law unless that Person has first obtained a License as required under this By-law.
- 3.5 Renting an unlicensed Short-term Rental. No Person shall rent, or communicate with anyone to rent, a Short-term Rental that is not licensed pursuant to the provisions of this By-law.
- 3.5 Expiry and Revocation. No Person shall carry on any trade, business or occupation of Short-term Rental for which a License is required under this By-law if the License has expired or been revoked; or, while the License is under suspension.
- 3.6 Zoning compliance. A Person is not eligible to hold a License if the proposed use of the land, building or structure is not permitted by the Zoning By-law that applies to the Property.
- 3.7 Director powers. The power and authority to issue or renew a License, refuse to issue or refuse to renew a License, to cancel, to impose terms and conditions, including special conditions, on a License, is hereby delegated to the Director.
- 3.8 Director duties. The Director shall generally perform all of the administrative functions conferred upon him or her by this By-law and without limitation may:
- 3.8.1 receive and process all applications for all Licenses and renewals of Licenses under this By-law;
 - 3.8.2 issue Licenses in accordance with this By-law;
 - 3.8.3 impose terms and conditions on Licenses in accordance with this By-law; and
 - 3.8.4 refuse to issue or renew a License or revoke or suspend a License in accordance with this By-law.
- 3.9 Hearing Officer powers. The power and authority to hear an appeal or review the Director's decision to refuse to issue a License, refuse to renew a License, suspend a License or impose conditions on a License is hereby delegated to the Hearing Officer. The Hearing Officer shall have no authority to further delegate his or her powers or duties.
- 3.10 Legal compliance. Licenses issued pursuant to this By-law are conditional upon compliance by the Licensee with all City by-laws and compliance with all provincial and federal laws and regulations and any conditions imposed to the holding of the License.
- 3.11 Non-refundable fees. Subject to the Director's sole discretion, which shall be final and non-reviewable, all fees paid under this By-law are non-refundable.

LICENSE APPLICATION

- 4.1 Application forms. Every application for a new License or a renewal of an existing License shall be submitted to the City on the forms or in the manner prescribed by the Director.
- 4.2 Application requirements. Every Applicant for a new License or a renewal of an existing License shall be the Owner or Long-term Tenant of the premises, be at least 18 years of age, and provide to the satisfaction of the Director the following materials for a complete application as set out in section 7.1 of this By-law:

- 4.2.1 the municipal address and legal description of the Short-term Rental premises;
 - 4.2.2 the name of the Owner and their address, telephone number, and e-mail address;
 - 4.2.3 where the Applicant is the Owner, a copy of the transfer/deed evidencing their ownership of the premises, or, where the Applicant is a Long-term Tenant, a copy of their rental/lease agreement of the premises and written authorization from the Owner satisfactory to the Director that the Owner consents to the operation of a Short-term Rental on the premises;
 - 4.2.4 the name, address, telephone number and e-mail address of any Agent assigned by the Applicant to be the responsible Person for the operation and conduct of the inhabitants of the licensed Short-term Rental premises;
 - 4.2.5 a certificate of insurance which confirms that the Applicant has in place at the time of the application, general liability insurance which can form part of or is included in a "home sharing", "host insurance", "short-term rental" or other similar type of insurance of not less than \$2 million per occurrence including property damage and bodily injury, and if requested, that the City be included as an additional insured, but only with respect to the Applicant's operation of the premises as a Short-term Rental;
 - 4.2.6 a site sketch that indicates the location of the Short-term Rental premises, the adjacent Highway, and any external garbage/recycling facilities;
 - 4.2.7 a floor plan of the Short-Term Rental premises clearly indicating the location and number of rooms, the proposed total occupancy limit, and for each room, accompanying photos, its dimensions, a description of its proposed use, and the proposed number of beds;
 - 4.2.8 a Parking Management Plan that complies with the Zoning By-law;
 - 4.2.9 a Fire Safety Protocol;
 - 4.2.10 a certificate from a licensed electrician dated within 12 months of the date of the application indicating the premises and its proposed use comply with the Electrical Safety Code;
 - 4.2.11 a sworn statement from the Applicant certifying the accuracy, truthfulness, and completeness of the application;
 - 4.2.12 consent for the City to use any information or database available to it, to verify the information provided by the Applicant or enforce the provisions of this By-law;
 - 4.2.13 consent to the inspection of the Short-term Rental premises at any reasonable time and when permitted by law, and that such inspection shall be in accordance with the Powers of Entry By-law;
 - 4.2.14 the prescribed fees as required by the City's Rates and Fees By-law.
 - 4.2.15 any outstanding fees required under this By-law owed to the City by the Applicant.
- 4.3 Additional material. The Director may require the following additional materials:
- 4.3.1 a statement prepared by the Fire Chief dated within 12 months of the date of the application indicating that the premises and its proposed use comply with the Fire Protection and Prevention Act and the Fire Code, and that such statement indicates the occupant load for sleeping purposes for the premises.

The Applicant shall pay any additional required fees for any fire safety inspection necessary to prepare said statement; and

- 4.3.2 any other supporting information or material that may be relevant to review or as may be required in any other part of this By-law or by the Director.

5. LICENSE RENEWAL APPLICATION

- 5.1 Renewal application. Every Licensee applying for a License renewal shall submit a complete application as set out in section 7.1 of this By-law, on the forms or in the manner prescribed by the Director for the purposes of renewal along with the following:

- 5.1.1 if no changes have been made to the floor plan, site sketch, Parking Management Plan, or Fire Safety Protocol submitted with the original application, a declaration that there have been no such changes;

- 5.1.2 if changes have been made to the floor plan, site sketch, Parking Management Plan, or Fire Safety Protocol submitted with the original application:

- 5.1.2.1 a revised floor plan of the Short-term Rental premises clearly indicating the location and number of rooms, a description of its proposed use, and the number of beds, if changes have been made to the floor plan;

- 5.1.2.2 a revised site sketch that indicates the location of the Short-term Rental premises, the adjacent Highway, and any external garage/recycling facilities, if changes have been made to the site sketch;

- 5.1.2.3 a revised Parking Management Plan, if changes have been made to the Parking Management Plan; and

- 5.1.2.4 a revised Fire Safety Protocol, if changes have been made to the Fire Safety Protocol.

- 5.1.3 if changes have been to the power supply or electrical wiring of the premises, a certificate from a licensed electrician dated within 12 months of the date of the application indicating the premises and its proposed use comply with the Electrical Safety Code, O. Reg. 164/99.

- 5.1.4 the prescribed fees as required by the City's Rates and Fees By-law.

- 5.2 Additional material. Notwithstanding section 5.1, the Director may require that an Applicant provide in their License renewal application, anything required under section 4.3, if in the opinion of the Director, the renewal application is substantially different than the original application or circumstances warrant it.

- 5.3 Renewal application deadline. Subject to the sole discretion of the Director which shall not be reviewable, a Licensee that does not submit a License renewal application prior to three (3) months of the expiration of their License may be required to submit a new application pursuant to section 4 of this By-law;

- 5.4 Non-continuance. A License renewal application submitted under this section does not permit a Licensee to continue to operate a Short-term Rental until such time the renewal application has been reviewed and approved by the Director, or an administrative temporary extension of the existing License has been granted by the Director.

6. REVIEW OF APPLICATION AND PREMISES INSPECTION

- 6.1 Powers of review. The Director may cause such investigations and inspections of Short-term Rentals to be undertaken respecting an application for a License as the Director determines to be relevant to the application.

- 6.3 Scheduling inspections. Upon receipt of a complete application as set out in section 7.1 of this By-law, and all accompanying documentation and the required fees, the City may schedule an inspection of the Short-term Rental premises, at any reasonable time and when permitted by law, and that such inspection shall be in accordance with the Powers of Entry By-law.
- 6.4 Rejection of application. The Director may reject a License application or its renewal where any of the documents required by this By-law are incomplete or have not been filed.
- 6.5 Third-party review. As a part of the review, applications may be circulated to those agencies deemed necessary or relevant by the Director.

7. ISSUANCE OF LICENSE

- 7.1 Complete application. The determination of whether a License application is “complete” in accordance with the requirements of this By-law shall be within the sole discretion of the Director, and such decision shall not be reviewable.
- 7.2 License content. Each License shall include, without limitation, the following:
- 7.2.1 the License number;
 - 7.2.2 the date the License was issued and the date it expires;
 - 7.2.3 the municipal address of the Short-term Rental premises;
 - 7.2.4 the number of beds in the Short-term Rental.
 - 7.2.5 the name, address, telephone number and e-mail address of the Licensee
- 7.3 License period. A License is valid for a period of two (2) years from the date of issuance.
- 7.4 Ownership of License. Every License, at all times, is owned by and is the property of the City and is valid only in respect of the Licensee for the Short-term Rental premises named therein.
- 7.5 Change in ownership. An issued License shall automatically expire upon a change in ownership of the Short-term Rental premises, in the case of an Owner, or upon termination or expiry of the lease of the Short-term Rental premises, in the case of a Long-term Tenant.
- 7.6 No vested right. No Person shall enjoy a vested right in the continuance of a License.
- 7.7 Non-transferable. Unless transferred under this section, a License is not transferable.

8. NON-ISSUANCE AND NON-RENEWAL OF LICENSE

- 8.1 Non-issuance. The Director may refuse to issue or renew a License where:
- 8.1.1 the past conduct of the Applicant or Licensee affords the Director reasonable grounds to believe that the Applicant or Licensee has not or will not carry on their Short-term Rental License in accordance with applicable law or honesty and integrity;
 - 8.1.2 the Director reasonably believes that issuing the Short-term Rental License might be adverse to the public interest;

- 8.1.3 the Director reasonably believes that issuing the Short-term Rental License poses a threat to the health and safety of Persons or Property;
- 8.1.4 the Applicant or Licensee owes any fine or fee to the City in respect of the Short-term Rental premises;
- 8.1.5 the Short-term Rental premises is subject to an order, or orders made pursuant to or by:
 - 8.1.5.1 a City by-law;
 - 8.1.5.2 the Building Code Act;
 - 8.1.5.3 the Fire Protection and Prevention Act;
 - 8.1.5.4 the Medical Officer of Health; and
 - 8.1.5.5 any other applicable law.
- 8.1.6 the Short-term Rental premises is not in compliance with the City's Zoning By-law;
- 8.1.7 the Director has received an objection to the issuance of the License by the Chief Building Official or the Fire Chief;
- 8.1.8 Where a previous License issued to the Licensee was suspended or revoked pursuant to section 11 of this By-law; or
- 8.1.9 a license has been revoked or suspended within the last two (2) years.

8.2 Notice. Where the Director has made a decision of non-issuance of a License outlined under section 7.2, the Director's written notice of that decision shall be given to the Applicant or the Licensee, in the case of a renewal, by registered or regular mail, personal service, or e-mail to the last known address of the Applicant or Licensee, and shall be deemed to have been given on the fifth day after it is mailed, or in the case of e-mail, on the same day it is sent if it was e-mailed before 4 p.m., otherwise, it is deemed to be given the day after.

8.3 Notice content. The written notice of non-issuance or non-renewal of a License to be given under section 7.3 shall:

- 8.3.1 set out the reasons for the decision;
- 8.3.2 be signed by the Director; and
- 8.3.3 state that the Applicant or Licensee is entitled to a hearing by the Hearing Officer which shall take place within 30 days of the notice of the decision of the non-issuance or non-renewal of a License under section 8.2 if the Applicant or Licensee delivers to the Director within 10 days after the notice of decision in section 8.2 is served, and provides to the City the applicable appeal fee as set out in the Rates and Fees By-law.

8.4 Final decision. Where no appeal is registered within the required time period, the decision of non-issuance or non-renewal of a License made by the Director shall be final as of the day the decision was made.

9. LICENSE CONDITIONS

9.1 Conditions. The following conditions are attached to each License issued under this By-law:

- 9.1.1 the Short-term Rental is lawfully constructed;

- 9.1.2 when the premises is occupied for the purposes of a Short-term Rental, a legible copy of the License shall be posted in a conspicuous location within one (1) meter of the interior of the Short-term Rental's primary entrance;
- 9.1.3 a Licensee shall notify the Director in writing within seven (7) days of any change to any information provided pursuant to sections 4 and 8 of this By-law;
- 9.1.4 the Licensee shall ensure compliance with all applicable laws including:
- 9.1.4.1 the Fire Protection and Prevention Act;
 - 9.1.4.2 the Building Code Act;
 - 9.1.4.3 the Electrical Safety Code;
 - 9.1.4.4 the EMCPA
 - 9.1.4.5 the Reopening Ontario Act
 - 9.1.4.6 the Health Protection and Promotion Act, R.S.O. 1990, c. H.7;
 - 9.1.4.7 the Zoning By-law;
 - 9.1.4.8 the Traffic By-law;
 - 9.1.4.9 the Fireworks By-law;
 - 9.1.4.10 the Open Air Burning By-law;
 - 9.1.4.11 the City's Property Standards By-law No. 2014-248;
 - 9.1.4.12 the City's Public Nuisance By-law No. 2007-295;
 - 9.1.4.13 the City's Noise By-law No. 95-198;
 - 9.1.4.14 the City's Waste By-law 2020-106; and
 - 9.1.4.15 the Regional Municipality of Niagara's Waste Collection By-law No. 2017-56.
- 9.1.5 when the premises is occupied for the purposes of a Short-term Rental, the Licensee shall ensure that no vehicle is stopped or parked on any part of the Short-term Rental premises except within a parking space identified on the Parking Management Plan filed pursuant to the provisions of this By-law;
- 9.1.6 when the premises is occupied for the purposes of a Short-term Rental, the Licensee shall ensure that a legible copy of the Fire Safety Protocol shall be posted in a conspicuous location within one (1) meter of the interior of the Short-term Rental's primary entrance, and that the occupant complies with the Fireworks By-law and Open Air Burning By-law;
- 9.1.7 the Licensee shall allow, at any reasonable time and when permitted by law, the City to inspect the Short-term Rental premises to ensure compliance with this By-law, and that such inspection shall be in accordance with the Powers of Entry By-law;
- 9.1.8 the Licensee shall include the License number in any advertisement or promotion related to the renting out of the premises intended to be used as a Short-term Rental;

9.1.9 the Licensee shall ensure that the Licensee or their Agent is available to attend to the Short-term Rental premises at all times within a period of no greater than one hour from the time of contact by way of telephone or e-mail.

9.1.10 within three (3) months of every anniversary of the issuance or renewal of the License, the Licensee shall provide to the City an updated certificate of insurance as required in section 4.2.5.

9.2 Additional Conditions. The Director may impose such additional conditions as the Director determines are appropriate in relation to the issuance of any License at any time during the term of the License, as are necessary in the opinion of the Director to give effect to the purposes of this By-law.

9.3 Review of conditions. Where a Licensee is dissatisfied with any condition imposed by the Director pursuant to section 9.2 of this By-law, the Licensee may request a review of the condition by the Hearing Officer.

10. REVOCATION AND SUSPENSION OF LICENSES

10.1 Decision to revoke. The Director may revoke or suspend a Short-term Rental License at any time where:

10.1.1 a Licensee is charged or convicted of an offence related to the contravention of any provision of this By-law, the Building Code Act, the Building Code, the Fire Protection and Prevention Act, and the Fire Code;

10.1.2 there are reasonable grounds for belief that an application or any other document or information provided on behalf of the Licensee contains a false statement or false information;

10.1.3 a Licensee contravenes any condition that is required under section 9 of this By-law;

10.1.4 the total number demerit points assessed against a License cause a Licensee to contravene any of sections 12.1.3, 12.1.4, or 12.1.5 of this By-law;

10.1.5 the License was issued in error;

10.1.6 the Director, acting reasonably, is of the opinion that the Short-term Rental premises being licensed poses a threat to the health and safety of Persons or Property; or

10.1.7 the Director becomes aware of any fact or facts which, if known at the time of the application, may have resulted in the Director refusing to issue the License.

10.2 Suspension conditions. The Director may suspend a Short-term Rental License for a period of time and subject to such terms or conditions that the Director considers appropriate.

10.3 Notice. The Director shall provide the Licensee notice that their Short-term Rental License has been suspended or revoked and provide written reasons outlining why their License has been suspended or revoked. The Director's written notice of that decision shall be given to the Licensee by registered or regular mail, personal service, or e-mail to the last known address of the Licensee, and shall be deemed to have been given on the fifth day after it is mailed, or in the case of e-mail, on the same day it is sent if it was e-mailed before 4 p.m., otherwise, it is deemed to be given the day after.

10.4 Notice Content. The written notice to be given under section 9.3 shall:

10.4.1 set out the reasons for the decision;

10.4.2 be signed by the Director; and

10.4.3 state that the Licensee is entitled to a hearing by the Hearing Officer which shall take place within 60 days of the written notice of a License being suspended or revoked if the Licensee delivers to the Director within 30 days after the notice in section 9.3 is served, and provides to the City the appeal fee as set out in the Rates and Fees By-law.

10.5 Automatic suspension. Where the Director suspends or revokes a License for reasons related to public health or safety issues, the License may be automatically suspended by the Director until such time as a determination on the issue has been made by the Hearing Officer, provided that:

10.5.1 before suspending the License, the City provides the Licensee with the reasons for the suspension either verbally or in writing and an opportunity to respond to them; and

10.5.2 the suspension shall not exceed 14 days, unless otherwise authorized by the Director.

11. APPEALS

11.1 Right to appeal. An Applicant or Licensee who has been denied a License, a License renewal, or has had their License suspended or revoked, may appeal the decision to a Hearing Officer, unless the revocation is pursuant to section 9.5 of this By-law.

11.2 Request to review. An Applicant or Licensee may request a review of the decision within 30 days after the decision has been delivered to the Person.

11.3 Absence of request. If an Applicant or Licensee has not requested a review within the time limit set out in section 10.2, the Applicant or Licensee shall be:

11.3.1 deemed to have waived the right to request a hearing;

11.3.2 the decision shall be deemed to be affirmed; and

11.3.3 the decision shall not be subject to any further review.

11.4 Submitting the form. An Applicant's or Licensee's right to request a review of a decision are exercised by attending the review hearing in person, or electronically, at the place or in the manner specified in the applicable form and filing said form.

11.5 Scheduling a review. A review shall only be scheduled by the City if the Applicant or Licensee has exercised his or her right to request a review within the time limit set out in section 10.2.

11.6 Document submission. Any documents that the Licensee or Applicant intends to rely on at the hearing must be submitted via e-mail prior to the scheduled hearing. All submitted documents, the notice of the decision being reviewed, and the request for review form will be compiled into one (1) package and distributed to the Hearing Officer, Director, and the Applicant or Licensee and their authorized representative, if applicable, for review prior to the hearing. No new material is permitted to be introduced at the hearing. Should any documentation be requested for reference purposes (e.g. applicable by-law information, etc.), it must be requested by the Applicant or Licensee prior to the hearing.

11.7 Permitted attendees. The only individuals permitted to be present during the course of the hearing are the Hearing Officer, the Applicant or Licensee, their authorized representative, if applicable, the Director and any individuals that the Director requires, additional designated City staff members (solely for the purpose of administering the hearing and recording minutes of the hearing) and, where

applicable, a Person designated to provide assistance and support for Persons with disabilities under the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c.11, or any other applicable legislation. Any such Person present will not be allowed to participate in the hearing without the permission of the Hearing Officer.

- 11.8 Absence. When the Applicant or Licensee, who has been given written notice of the hearing, does not attend at the appointed time and place, the Applicant or Licensee shall be deemed to have abandoned the request for a review of the decision and the Hearing Officer may proceed with the hearing in his or her absence and the Applicant or Licensee shall not be entitled to any further notice of the proceeding.
- 11.9 Decision. On a review of the decision, the Hearing Officer may affirm, vary, or overturn the decision of the Director or make any decision that the Director was entitled to make in the first instance.
- 11.10 SPPA. All hearings conducted by the Hearing Officer shall be in accordance with the SPPA.
- 11.11 Communication of Decision. At the conclusion of the hearing, the Hearing Officer may give its decision orally or in writing but in each case, it shall provide its decision in writing, with reasons, within 30 days after the hearing to the Applicant or Licensee and the Director, and the decision shall be signed by the Hearing Officer.
- 11.12 Notice of decision. The Hearing Officer's written decision shall be given to the Applicant or Licensee by registered or regular mail, personal service, or e-mail to the last known address of that Person and shall be deemed to have been given on the fifth day after it is mailed, or in the case of e-mail, on the same day it is sent if it was e-mailed before 4 p.m., otherwise, it is deemed to be given the day after.
- 11.13 Electronic hearing. The hearing may be held electronically, in accordance with Schedule "C" attached to this By-law.
- 11.14 Final decision. The decision of the Hearing Officer is final.
- 11.15 Non-consideration of law. The Hearing Officer shall not have jurisdiction to consider questions relating to the validity of a statute, regulation or by-law or the constitutional applicability or operability of any statute, regulation or by-law.
- 11.16 Interference. No Person shall attempt, directly or indirectly, to communicate for the purpose of influencing a Hearing Officer's decision respecting the determination of an issue in a proceeding that is, or will be, pending before the Hearing Officer. Exceptions include:
 - 11.16.1 a Person who is entitled to be heard in the proceeding or the Person's authorized representative; and
 - 11.16.2 only by that Person or the Person's authorized representative during the hearing of the proceeding in which the issue arises
- 11.17 Legal advice. Section 1.16 does not prevent a Hearing Officer from seeking and receiving legal advice, including from a City lawyer.

12. DEMERIT SYSTEM

- 12.1 Demerit system. A demerit point system is established without prejudice to options otherwise available to enforce this By-law or any other City by-law or provincial act or regulation including Actions pursuant to the Fire Protection and Prevention Act, the Building Code Act, and the Provincial Offences Act.

- 12.1.1 the number of demerit points referenced in Column 3 of Table 1 below will be assessed against a Short-term Rental premises in respect of the matter noted in Column 1 if the Director is of the opinion that the matter noted in Column 1 has occurred;
- 12.1.2 demerit points remain in place until the two-year anniversary of the date on which the demerit points were allocated;
- 12.1.3 if the total of all demerit points in effect respecting a Short-term Rental premises is at least 5, the Director shall suspend the Short-term Rental License for three (3) months. The Licensee may appeal the decision in the same manner as provided for under section 10 of this By-law;
- 12.1.4 if the total of all demerit points in effect respecting a Short-term Rental premises is at least 10, the Director shall revoke the Short-term Rental License for its remaining duration. The Licensee may appeal the decision in the same manner as provided for under section 10 of this By-law; and
- 12.1.5 if the total of all demerit points in effect respecting a Short-term Rental premises is at least 15, the Director shall revoke the Short-term Rental License for its remaining duration, and the Licensee shall have no right to appeal the decision without leave of the Hearing Officer.

Column 1	Column 2	Column 3
Infraction	Reference	Demerit Points
<i>Fire Protection & Prevention Act</i>	9.1.4.1	10
Fire Safety Protocol	9.1.6	10
Obstruction of Inspection	13.2	10
<i>Building Code Act</i>	9.1.4.2	8
<i>Electrical Safety Code</i>	9.1.4.3	8
Orders under the EMCPA	9.1.4.4	8
Reopening Ontario Act	9.1.4.5	8
Open Air Burning By-law	9.1.4.10	8
<i>Health Protection and Promotion Act</i>	9.1.4.6	8
Public Nuisance By-law No. 2007-295	9.1.4.12	7
Noise By-law No. 95-198	9.1.4.13	7
Fireworks By-law	9.1.4.9	7
Non-availability of responsible Person	9.1.9	4
Not posting License number	9.1.8	4
Not posting License	9.1.2	4
Not providing updated information	9.1.3	3
Parking Management Plan	9.1.5	3
Zoning By-law No. 2013-283	9.1.4.7	3
Property Standards By-law No. 2014-248	9.1.4.11	3
Waste By-law No. 2020-106	9.1.4.14	2
Garbage collection	9.1.4.15	2

13. ENFORCEMENT

- 13.1 Inspection. The Director or an Officer, along with any Person necessary to assist the Director or Officer with their duties, may, at any reasonable time and when permitted by law, enter and inspect any Short-term Rental for the purpose of determining whether the Property is in compliance with any section of this By-law, and that such inspection shall be in accordance with the Powers of Entry By-law.
- 13.2 Obstruction. No Person shall hinder or obstruct the Director or an Officer, who is carrying out an inspection of the Property for the purpose of enforcing this By-law, nor shall any Person hinder or obstruct any employee or agent of the City directed to carry out work to bring the Short-term Rental into compliance with any section of this By-law.

- 13.3 Presumption of operation. In the absence of evidence to the contrary, if an advertisement or promotion related to the renting out of a premises intended to be used as a Short-term Rental is found, the Owner or Long-term Tenant, whichever the case may be, is deemed to have posted the advertisement or promotion, or consented to the posting of the advertisement or promotion of the premises as a Short-term Rental.

14. OFFENCES

- 14.1 Offence. Every Person who contravenes any provision of this By-law is liable to such penalties as provided for in the Municipal Act, 2001, S.O. 2001, c. 25.
- 14.2 Administrative penalties. An Officer who finds that a person has contravened a provision of this By-law may issue a penalty notice pursuant to the Non-Parking AMPS By-law.
- 14.2 Continuing offence. A contravention of the requirements set out in this By-law is deemed to be a continuing offence on each day or part of a day that the contravention continues.

15. GENERAL

- 15.1 Gender and number. In this By-law, unless the contrary intention is indicated, words used in singular shall include the plural and words used in the male gender shall include the female gender and vice versa.
- 15.2 And/Or. The word “and” is an inclusive conjunction, the use of which indicates that all items or phrases in that subsection, article, or list in which it appears are permitted or required as the case may be. The word “or” is an alternate conjunction, the use of which indicates that alternate or optional items or phrases in the subsection, article or list in which it appears are permitted or required, as the case may be; however, notwithstanding the foregoing, where the context permits, the word “or” may also be an inclusive conjunction having the same meaning as the word “and”.
- 15.3 Severability. If any or part of a provision of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative on particular circumstances, the balance of this By-Law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.
- 15.4 Delegation. For the purposes of subsection 23.2(4) of the Municipal Act, it is the opinion of Council that the powers delegated pursuant to this By-law are minor.
- 15.5 Compliance with other by-laws. This By-law shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the City or by any governmental authority having jurisdiction to make such restrictions or regulations. If there is a conflict between a provision of this By-law and a provision of any other City by-law, the provision that establishes the higher standard shall apply.
- 15.5 Legislation. Any reference to legislation in this By-law includes the legislation referred to and its amendments as well as any subsequent legislation which may replace the legislation referred to, and its amendments thereto.
- 15.6 Effective date. This by-law comes into force and effect in the City wards listed below on the following dates:
- 15.6.1 WARD 6 – PORT DALHOUSIE: December 1, 2021
- 15.6.2 WARD 5 – GRANTHAM: December 1, 2021

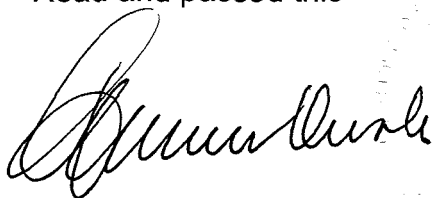
15.6.3 WARD 4 – ST. PATRICK’S: February 1, 2022

15.6.4 WARD 3 – GEORGE’S: February 1, 2022

15.6.5 WARD 2 – ST. ANDREW’S: April 1, 2022

15.6.6 WARD 1 – MERRITON: April 1, 2022

Read and passed this *10TH* day of *MAY* 2021.



CLERK



MAYOR

SCHEDULE "A"

Definitions under the City's Zoning By-law No. 2013-283 as of February 3, 2021

"Dwelling Unit" means a self-contained housekeeping unit of one or more rooms containing cooking facilities, living quarters, sleeping quarters and sanitary facilities for the exclusive use of those residing within the dwelling unit, and which has an exclusive entrance.

"Home-based Business" means a use conducted within a Dwelling Unit which is secondary to the primary residential use of the Dwelling Unit, and may include outdoor activities associated with the home based business.

"Principal Residence" means a Dwelling Unit in which a person resides a majority of the year (i.e. 183 days or more).

SCHEDULE "B"

Hearing Officer Appointment Process

1. **APPOINTMENT OF HEARING OFFICER**

- 1.1 Ineligible persons. The following are not eligible for appointment as a Hearing Officer:
- 1.1.1 an employee or member of Council of the City;
 - 1.1.2 the relative of a Person referenced in section 1.1.1 of Schedule "B";
 - 1.1.3 a Person indebted to the City other than:
 - 1.1.3.1 in respect of real property taxes; or
 - 1.1.3.2 pursuant to an agreement with the City, the terms with which the Person is compliant.
- 1.2 Terms and length of employment. The Hearing Officer shall be appointed for such period and subject to such terms and conditions as may be determined by City staff in accordance with the City's employment or contract policies and guidelines, with preference to those candidates with knowledge of administrative law and being of good character.

SCHEDULE "C"

Virtual Hearings

1. **RULES FOR ELECTRONIC HEARINGS**

1.1 Format and procedure. Video and audio must be enabled at all times by all participants during the hearing. In the event that any technical difficulties are faced during the course of the hearing, the following steps shall be followed:

1.1.1 in the event of failed audio communication, arrangements will be made to remain on video and to use the telephone number as provided with the information and video link for the Electronic Hearing to the Person (and/or their authorized representative (if applicable)) to be able to continue the remainder of the hearing;

1.1.2 In the event of failed video, the hearing will be put on hold and an attempt to re-establish video connection will take place. If the video connection cannot be re-established, the hearing will be adjourned and re-scheduled.

1.1.3 An Electronic Recording of the hearing is not permitted unless consent of all participants is given, save and except for the purpose of administering the hearing and recording of minutes of the hearing by the Hearing Officer and designated City staff.